



ILLINOIS COMMERCE COMMISSION

January 23, 2002

Illinois Commerce Commission
On Its Own Motion

-vs-

Union Pacific Railroad; Goodfarm Township located in Grundy County;
and the State of Illinois, Department of Transportation

T01-0056

Citation with respect to improving public safety where Union Pacific tracks cross two public highways at-grade known as Filman Road (TR 142A, DOT 290 530M) and Gantzert Road (TR 128B, DOT 290 532B), located in Goodfarm Township, by closing, abolishing, and barricading the Filman Road and Gantzert Road grade crossings and by providing any other relief that the Commission may under the circumstance deem necessary and appropriate and dividing the cost among the parties in accordance with Law.

TO ALL PARTIES OF RECORD:


ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER

Attached is a copy of the Administrative Law Judge's Proposed Order in the above referenced matter.

The Administrative Law Judge's Proposed Order is being sent to you pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200). Your case is a "contested case" or "licensing case" as defined in Section 200.40 of the Rules and, therefore, the Hearing examiner is required under Section 200.820 to issue a Proposed Order to all parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and replies thereto may be filed by the parties within the time periods established by the rules of such other times as fixed by the hearing examiner. The times for filing exceptions and replies are fixed at ten days and seven days, respectively.

Entered:


Rick Korte
Chief Administrative Law Judge
Review and Examination

RK:rsc
Railroad Staff: Brian Vercuyse

DOCKETED

STATE OF ILLINOIS
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necessary and appropriate and dividing the cost among the
parties in accordance with Law.

PROPOSED ORDER

By the Commission:

On September 26, 2001, the Illinois Commerce Commission ("Commission") entered its Citation in this proceeding requiring the parties to appear at a hearing at the Commission's offices in Springfield, Illinois, to show cause why an Order should not be entered requiring the parties to comply with the relief sought by the Commission.

On November 19, 2001, a Petition to Intervene was filed with the Commission on behalf of the Peter D. Scully Trust of 1954 ("Scully Trust").

On January 18, 2002, pursuant to proper legal notice, a hearing was held before the Commission's duly authorized Chief Administrative Law Judge at the Commission's Office in Springfield, Illinois. Appearances were entered by counsel of the Union Pacific Railroad ("Railroad") and the Scully Trust, a representative of the Illinois Department of Transportation and a member of the Commission's Rail Safety Section ("Staff"). No appearances were entered on behalf of Goodfarm Township of Grundy County. Hearing no objection, the Chief Administrative Law Judge granted the Petition to Intervene by the Scully Trust.

At the January 18, 2002 hearing, Staff provided testimony in support of the Commission's Citation to close the Filman Road (TR 142A, DOT 290 530M) and Gantzert Road (TR 128B, DOT 290 532B) public highway-rail grade crossings located in Goodfarm Township, Grundy County, Illinois. A representative of the Scully Trust provided testimony indicating closure of the two aforesaid crossings could have a negative financial impact on the Scully Trust because it could adversely affect the future development of its property located adjacent to the crossings.

A representative of Goodfarm Township provided testimony, which indicated Filman Road and Gantzert Road, are public roadways maintained by Goodfarm Township. The record was marked "Heard and Taken" at the conclusion of the hearing.

The Commission, having given due consideration to the entire record in this matter, finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) the recitals of fact as set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (3) within the unincorporated area of Goodfarm Township, Grundy County, public highways known as Filman Road (TR142A, DOT 290 530M) and Gantzert Road (TR128B, DOT 290 532B) cross at-grade the Railroad's single mainline track; Filman Road and Gantzert Road are both under the jurisdiction of Goodfarm Township located in Grundy County and extend in a general north-south direction; recent twenty-four hour traffic counts performed by Commission staff indicate Filman Road and Gantzert Road are used by less than 5 vehicles per day; both roadways have no posted speed limit and have narrow surfaces which consist of dirt, grass and gravel; the northbound approach grades for both roadways exceed 5%; visibility of approaching trains for northbound motorists at each crossing is obstructed by seasonal crops; the Railroad's single mainline track extends in a general northeast-southwest direction and is in the process of being upgraded to allow for the future operation of high-speed, 110 mph, passenger trains per an Illinois Department of Transportation project; the mainline track now carries an average of four freight trains per day at maximum speeds of 60 mph and 6 passenger trains per day at maximum speeds of 79 mph; sixteen high-speed passenger train movements are planned in the future; both crossings are marked with passive cross buck signs; the crossing surface at the Filman Road crossing consists of timber and asphalt and the crossing surface at the Gantzert Road crossing consists of timber and railroad ballast; Commission records indicate no crossing accidents have occurred at the two aforesaid crossings in the last five years;
- (4) only minimum adverse travel will be created for the motoring public and emergency response vehicles will not be affected if the Filman Road and Gantzert Road crossings are closed due to the proximity of alternate public crossings; the alternate public at-grade crossings will be equipped with four-quadrant gate warning devices within the next twelve months to accommodate future high-speed passenger train movements as required under the Commission's Order in Docket T01-0038.
- (5) the Commission finds that in the interest of public safety the aforesaid Filman Road and Gantzert Road grade crossings should be closed, abolished and barricaded and that public convenience served by the crossings is not such as to justify their further retention; the cost to close, abolish and barricade the Filman Road and Gantzert Road crossings is estimated to be \$15,000 and should be borne by the Railroad.

ADMINISTRATIVE LAW JUDGE'S
PROPOSED ORDER

IT IS THEREFORE ORDERED by the Commission that the Railroad shall close, abolish and barricade the Filman Road (TR 142A, DOT 290 530M) and Gantzert Road (TR 128B, DOT 290 532B) public highway-rail grade crossings located in Goodfarm Township, Grundy County, Illinois, upon completion of the warning device improvements at the Stonewall Road, Scully Road and Gorman Road crossings as required by the Commission's Order in Docket T01-0038.

IT IS FURTHER ORDERED that the cost to close, abolish and barricade the aforesaid Filman Road and Gantzert Road crossings shall be borne by the Railroad.

IT IS FURTHER ORDERED that the Railroad shall file a written report within six (6) months from the date of this Order with the Director of Processing and Information, of the Commission's Transportation Division, stating the progress made toward completion of its work herein required. Said reports shall include the Commission Order Number, the Order Date, the project completion date as noted in this Order, crossing information (Inventory Numbers and Railroad Mileposts), type of improvement, and project manager information (the name, title, mailing address, phone number and facsimile number of the employee responsible for management of this project.)

IT IS FURTHER ORDERED that the Railroad shall file a written notice of completion with the Director of Processing and Information, Transportation Division of the Commission within five (5) days of completion of their work herein required.

IT IS FURTHER ORDERED that subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this _____ day of _____, 2002.

Chairman